IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:20.08.2005

CORAM:

THE HON'BLE MR.JUSTICE P.SATHASIVAM

and

THE HON'BLE MR.JUSTICE AR.RAMALINGAM

Writ Appeal No.553 of 2001

and
Writ Petition No.24594 of 2001
and
WAMP.No.112 of 2004
and
WPMP.No.924 of 2004
..

Writ Appeal No.553 of 2001:

Islamaiya Teacher Training Institute
(Men & Women)
Kadathur Road, Kaniyur
Coimbatore District
rep. by its Correspondent
Mr. M.Y. Sadiq Ali.

.. Appellant
(Petitioner)

vs.

1. State of Tamil Nadu
   rep. by its Secretary
   Education Department
   Fort St. George, Chennai 9.

2. The Director of Teacher Education
   Research and Training
   Chennai 6.

3. A. Kaleemullah
4. S. Syed Ibrahim
5. P. Jaya Ponchitra
6. E. Kalithulla

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7. T.K. Tamilnenjam
8. A. Gandhi
9. S. Ravikumar
10. H. Mohamed Basheer
11. J. Syed Ismain Gani

(R.3 to R.11 impleaded as respondents as per order of Court dated 14.08.2002 made in WAMP.No.1893/02)

12. The Director of Government Examination, Teacher Education Training Chennai 6.

(R.12 impleaded as per order of Court dt.14.08.02 made in WAMP.No.4236/02)

..Respondents

Writ Petition No.24594 of 2001:

Saithani Bi Teacher Training
Institute for 40 Men & 40 Women
Thirupattur
now at Avalurpet Post
Gingee Taluk, Villupuram District
rep. by its Correspondent: D. Sardar.

.. Petitioner

vs.

1. The State of Tamil Nadu
   rep. by its Secretary to Government
   Education Department
   Fort St. George, Madras 9.

2. The Director of Teacher
   Education Research and Training
   Chennai 6.

3. The Director of Government Examination
   Teacher Education Training
   Chennai 6.
   (R.3 impleaded as per order dt.14.8.02 in WPMP.No.48793 of 2002) .. Respondents

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Writ Appeal filed under Clause 15 of Letter Patent against the order dated 13.03.2001 in W.P.No.4793 of 2001 on the file of this Court.

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus as stated therein.

For appellant / petitioner : Mr. K.M. Vijayan, Sr. Counsel for Mr. A. Chandrasekar

For respondents 1,2 & 12 in WA.No.553/01 & For respondents in the WP., : Mr. V. Karthikeyan Addl.Govt., Pleader (Edn.)

..

COMMON JUDGMENT

(JUDGMENT of the Court was made by P.SATHASIVAM,J.)

Since the issue raised and claim made are similar in both the matters, they are being disposed of by the following common judgment.

2. Islamaiya Teacher Training Institute (Men & Women) Kadathur Road, Kaniyur, Coimbatore District, aggrieved by the order of the learned single Judge dated 13.03.2001 made in W.P.No.4793 of 2001, has filed Writ Appeal No.553 of 2001.

3. Saithani Bi Teacher Training Institute for Men & Women, Thirupattur has filed WP.No.24594 of 2001, seeking to issue a writ of Mandamus forbearing the second respondent, Director of Teacher Education Research and Training, Chennai 6, from applying the judgment passed by this Court in W.P.No.13357 of 1989 dated 22.03.1993 and W.P.No.9494 of 1992 dated 27.04.1993 and to direct the respondents to grant permanent recognition on par with other institutions governed under Annexure II in the order made in WP.13036 of 1993 dated 25.02.1994.

4. Heard Mr. K.M. Vijayan, learned senior counsel for the appellant / petitioner and Mr. V. Karthikeyan, learned Additional Government Pleader for the respondents.

5. The claim of the appellant / petitioner in WP.No.4793 of 2001, viz., Islamaiya Teacher Training Institute (Men & Women) is that the respondents have erroneously applied the judgment of this Court in W.P.No.13357 of 1989 dated 22.03.1993 and W.P.No.9494 of 1992 dated 27.04.1993 and direction has to be issued to the respondents to grant permanent recognition on par with other Institutions governed under Annexure II and WP.No.13036 of 1993 dated 25.02.1994. Similar relief has been prayed by the petitioner in W.P.No.24594 of 2001, viz., Saithani Bi Teacher Training Institute for Men & Women, Thirupattur.

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6. The learned single Judge, in the case of Islamaiya Teacher Training Institute (Men & Women), after finding that their earlier WP.No.3374 of 1987, challenging the order of refusal to grant recognition was dismissed on 07.04.1993 and the same has become final and the petitioner without filing Review Application, filed WP.No.4793 of 2001 claiming benefit of the judgment of Division Bench in W.P.No.13036 of 1993 dated 25.02.1994, after a lapse of six years and also taking note of the fact that after introduction of National Council for Teacher Education Act, the State Government has no authority to grant recognition and is empowered to issue only No Objection Certificate and also finding no merit, dismissed the writ petition.

7. Though Mr. K.M. Vijayan, learned senior counsel has brought to our notice various orders granting temporary recognition, the fact remains, those orders were passed by the authorities pursuant to the interim directions made then and there in the relevant writ petitions. It is not in dispute that ultimately the writ petitions challenging the orders of refusal to grant recognition have been dismissed. Further, as rightly pointed out by the learned Single Judge, though the appellant claims that their Institute should be considered as one covered under Annexure II and not under Annexure III, the fact remains, no review application praying for clarification of the same has not been filed till this date. In view of the fact that their earlier writ petition No.3374 of 1987 has been dismissed on merits, the learned Judge cannot be expected to re-appreciate the merits of the case of the appellant and we are in agreement with the said conclusion.

8. Apart from this, as rightly pointed out though the appellant and the petitioner in other Writ Petition are running their respective Institutions, admittedly, no recognition has been granted by the authority concerned. Now, in view of National Council for Teacher Education Act, it is not in dispute that the State Government is not the authority to grant recognition and is empowered only to grant No Objection Certificate, if the Institution satisfies / fulfills the requirements. As said earlier, all the orders passed by the Educational Authorities are relating to only temporary recognition, subject to the final result in the writ petition. It is not in dispute that the writ petition filed by Islamiya Teacher Training Institute was dismissed by this Court on 07.04.1993. In such a circumstance, it goes without saying that ultimately the consequential order / orders passed on the basis of interim orders would become ineffective. The learned Additional Government Pleader has also placed the original file showing the Institutions under Annexure III. It is not in dispute that Annexure III contains the details of Institutions to which recognition is granted by the Government, pursuant to the direction of the Court and in those cases, the Division Bench dismissed all the writ petitions upholding the validity of G.O.Ms.No.536. Inasmuch as temporary recognition was granted only in pursuance of the interim order

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of the High Court, the appellant Institution was rightly included in Annexure III to the judgment in W.P.No.9494 of 1992.

9. It is not in dispute that in view of the orders of the Division Bench in W.P.No.9494 of 1992 dated 27.04.1993, the temporary recognition granted to various Teacher Training Institutions, including the appellant Institution, viz., Islamaiya Teacher Training Institute (Men & Women) has been cancelled. It is the claim of the appellant that the Government Institutions have only functioning thereafter. Subsequently, the National Council for Teacher Education Act,1993 came into force with effect from 01.07.1995 and the Council has been set up on 17.08.1995. It is brought to our notice that the appellant Institution, which was not having a valid recognition as on 17.08.1995, applied to the State Government for No Objection Certificate for grant of recognition by the National Council for Teacher Education, to start Teacher Training Institute and the same was rejected on 16.08.1996. Again, the appellant also made a representation on 12.03.1997 for grant of No Objection Certificate and the same was rejected on 23.10.1997. Again, another representation was made for No Objection Certificate on 30.11.1998, which was also rejected on 10.02.1999. In such a circumstance, as rightly pointed out, the appellant Institution is a de-recognised Institute and it is not a recognised Institute as on 17.08.1995.

10. It is highlighted before us by placing relevant records that the appellant Institute cannot be treated on par with the Aided Teacher Training Institutions, included in Annexure II for the reasons, Annexure II contains only the names of those Institutions which were granted temporary recognition long before, after verification of the infrastructural facilities and fulfillment of the norms at the relevant time, whereas it is demonstrated before us that the appellant Institution was not given recognition on merits based on its representation. As stated earlier, the appellant got temporary recognition only by virtue of interim orders of this Court, vide order dated 15.11.1991 made in WPMP.No.24073 of 1991 in WP.No.3374 of 1987.

11. As rightly pointed out by the learned Additional Government Pleader, the judgment dated 25.04.1994 of the Division Bench made in W.P.No.13036 of 1993, challenging the continuous functioning of the Government Teacher Training Institution and Aided Teacher Training Institutions is not applicable to the appellant's Institution for the reason that the appellant Institution was included only in Annexure III. It is also not in dispute that the judgment dated 25.04.1994 made in WP.No.13036 of 1993, etc., batch covers the Teacher Training Institutions run by the Government and recognised Aided Private Teacher Training Institutions. Further, as said earlier, in the absence of any effort seeking for suitable orders in regard to the placement of their Institute in the appropriate Annexure, as rightly contended by the learned

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Additional Government Pleader, the appellant cannot be allowed to say that their Institute was wrongly included in Annexure III.

12. It is also brought to our notice since the appellant Institute was not an existing Institute as on 17.08.1995, they applied for grant of No Objection Certificate on three occasions and the same was rejected by the State Government.

13. The analysis of all the above details show that the Division Bench has rightly included the appellant Institute in Annexure III to the judgment in WP.No.9494 of 1992 dated 27.043.1993, and derecognised about 219 Teacher Training Institutions, including the appellant Institute. Accordingly, as rightly pointed out, the appellant Institute was not an existing Institution as on 17.08.1995; the writ appeal is liable to be dismissed.

14. Though the respondents have not filed counter affidavit in WP.24594 of 2001, in view of similar set of facts and also of the fact that temporary recognition was granted then and there pursuant to the interim orders of this Court and no order has been passed either by this Court or by the Government granting permanent recognition after satisfying the requirements relating to infrastructural facilities and also other aspects, we are of the view that the relief cannot be granted as claimed by the petitioner. Even otherwise, as said in the other case, after the National Council for Teacher Education Act,1993, came into force, the State Government is not the competent authority to grant recognition and at the most, they can grant only No Objection Certificate.

In the light of the above discussion, we do not find any merit in the writ appeal as well as writ petition. Consequently, the same are dismissed. No costs. In view of dismissal of main cases, connected miscellaneous petitions are also dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
1. The Secretary
   State of Tamil Nadu
   Education Department
   Fort St. George, Chennai 9.

2. The Director of Teacher Education
   Research and Training
   Chennai 6.

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3. The Director of Government
   Examination,
   Teacher Education Training
   Chennai 6.

+ 2 CCs to Mr.A. Chandrasekar, Advocate SR NO 35061

+ 2 CCs to the Government Pleader SR NO 35105, 35104.

WA.No.553/01 & WP.No.24594/01

Dated:20.08.2005

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